

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

CRL.A.No. 892 of 2007()

AGAINST THE ORDER DATED 11/04/2007 IN MC.42/2006 IN
SC.416/2001 of ADDL.SESIONS COURT-TRIAL OF ABKARI ACT
CASES, NEYYATTINKARA
.....

APPELLANT: RESPONDENT

SARASSAMMA, D/O.THANKAMMA,
REVATHI BHAVAN, KALLIYOOR DESOM,
KALLIYOOR VILLAGE, THIRUVANANTHAPURAM.
STATED IN THE CASE RECORDS AS:- SARASSAMMA, D/O.
BHARGAVI, MELEKADACHAL PUTHEN VEEDU, PALLICHAL
DESOM & VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENT: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.892 of 2007

Dated this the 29th day of June, 2007

JUDGMENT

The appellant is the second respondent in M.C.No.42/06 in the proceedings initiated by the court under Section 446 of Crl.P.C. The sureties who include the appellant have been ordered to pay a penalty of Rs.20,000/- each.

2. The contention of the appellant is that she never stood as a surety to the absconding accused. It is seen herself and the first respondent had raised the above contentions before the court below. The same has been mentioned in paragraph 2 of the order of the court below. I find that the court below has not considered the contentions of the respondents properly and no enquiry has been made as to the allegations of the respondents therein. The court has just closed the matter with the observation that "the court cannot go behind to find that the present R1 and R2 who are parties to the said bail bond had not executed the bail bond as alleged by them, so long as they are the persons seen to have stood as sureties". I find that the above

stand cannot be countenanced. The order of the court below is set aside. The court below is directed to consider the matter afresh. The matter is remitted back to the court below. The appellant is directed to appear before the court below on 25.7.2007.

The criminal appeal is disposed of as above.

**K.R.UDAYABHANU,
JUDGE**

csl